



2017 Crime Commission Policy Options and Recommendations

December 4, 2017



Restitution

Recommendation 1:

- Virginia Code § 19.2-305.1 should be amended to clarify that the court has the authority to reduce the amount of restitution owed by the defendant, or the restitution amount could be marked as satisfied, when such action is requested by the victim during any period in which all or part of the restitution is outstanding.



Restitution

Recommendation 2:

- Virginia Code § § 19.2-11.01, 19.2-11.2, and 19.2-269.2 should be amended to set forth that a victim's email address and any telephone number cannot be disclosed if the victim requests confidentiality of their personal information in accordance with the statute.

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Restitution

Recommendation 3:

- Virginia Code § 19.2-305.2 should be amended to provide that if restitution ordered by a district court remains outstanding 20 years after it was ordered, then that restitution can be marked as inactive in the court's financial system, except for good cause shown. Furthermore, if restitution ordered by a circuit court remains unpaid 40 years after it was ordered, that restitution could likewise be marked as inactive.

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Admissibility of Statements

Policy Option 1:

- Enact Virginia Code § 19.2-268.4 to allow for the admission of prior inconsistent statements as substantive evidence (Endorse SB 1445 as written).
 - **OR**, allow for the introduction of prior inconsistent statements as substantive evidence if that prior statement was given under one, or all, of the following circumstances:
 - Under oath at a trial, hearing, deposition, or other proceeding;
 - At a grand jury proceeding;
 - In written form by the witness;
 - In written form signed by the witness;
 - Audio recorded statement of the witness;

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Admissibility of Statements

Policy Option 1 (cont.):

- Enact Virginia Code § 19.2-268.4 to allow for the admission of prior inconsistent statements as substantive evidence (Endorse SB 1445 as written). **OR**, one, or all, of the following circumstances:
 - Video recorded statement of the witness;
 - Any statement of the witness recorded by any similar electronic means;
 - The witness acknowledges under oath at trial that he made the statement.
 - A statement which is more than a mere confirmation or denial of an allegation by the interrogator (Massachusetts); or,
 - Any statement previously made by the witness, regardless of how such statement was captured or recorded.

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Admissibility of Statements

Policy Option 1 (cont.):

- Enact Virginia Code § 19.2-268.4 to allow for the admission of prior inconsistent statements as substantive evidence (Endorse SB 1445 as written).
- Should advance notice and a copy of the statement be required prior to trial as done in another section of the Code?

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DNA Databank: Expansion

Policy Option 1:

- Virginia Code § 19.2-310.2 could be amended to include all 7 additional misdemeanors:
 - Assault and battery;
 - Domestic assault and battery;
 - Petit larceny;
 - Trespassing;
 - Destruction of property;
 - *Obstruction of justice*;* and,
 - *Conceal merchandise/alter price tags*.*

* Obstruction of justice and conceal merchandise/alter price tags were not as strongly associated in the retrospective analysis as compared to the prospective analysis.

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DNA Databank: Expansion

Policy Option 2:

- Virginia Code § 19.2-310.2 could be amended to include 6 additional misdemeanors (obstruction of justice is not included):
 - Assault and battery (§ 18.2-57);
 - Domestic assault and battery (§ 18.2-57.2);
 - Petit larceny (§ 18.2-96);
 - Trespassing (§ 18.2-119);
 - Destruction of property (§ 18.2-137); and,
 - Conceal merchandise/alter price tags (§ 18.2-103).

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DNA Databank: Expansion

Policy Option 3:

- Virginia Code § 19.2-310.2 could be amended to include 5 additional misdemeanors (obstruction of justice and conceal merchandise are not included):
 - Assault and battery (§ 18.2-57);
 - Domestic assault and battery (§ 18.2-57.2);
 - Petit larceny (§ 18.2-96);
 - Trespassing (§ 18.2-119); and,
 - Destruction of property (§ 18.2-137).

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DNA Databank: Expansion

Policy Option 4:

- Virginia Code § 19.2-310.2 could be amended to include 5 additional misdemeanors (petit larceny and conceal merchandise are not included):
 - Assault and battery (§ 18.2-57);
 - Domestic assault and battery (§ 18.2-57.2);
 - Trespassing (§ 18.2-119);
 - Destruction of property (§ 18.2-137); and,
 - Obstruction of justice (§ 18.2-460).

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DNA Databank: Expansion

Policy Option 5:

- Virginia Code § 19.2-310.2 could be amended to include all Class 1 and Class 2 misdemeanors under Title 18.2 and 19.2 that require a fingerprint upon conviction, including trespassing and disorderly conduct.

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DNA Databank: Expansion

Recommendation 1:

- Amend Va. Code § 19.2-390 to require fingerprinting upon conviction for trespassing and disorderly conduct.
 - Fingerprints are required upon conviction for any misdemeanor punishable by confinement in jail under Titles 18.2 and 19.2, except for trespassing and disorderly conduct.
 - As a result, these convictions do not consistently appear on defendants' criminal histories.

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DNA Databank: Expansion

Recommendation 2:

- DFS should update their DNA sample submission training materials for sheriffs' deputies and jail intake officers to reflect current law because:
 - Training video is outdated (2003).
 - *This can be handled by Letter Request.*

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Pretrial Services

Recommendation 1:

- Va. Code § 19.2-152.7 should be amended to require DCJS to report annually on the status of each pretrial services agency, such as:
 - Amount of funding (local, state, federal, etc.);
 - Number of investigations and placements;
 - Average daily caseload;
 - Success rates; and,
 - Whether each pretrial services agency is in compliance with standards set forth by DCJS.

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Pretrial Services

Recommendation 2:

- DCJS should conduct a formal needs assessment of stakeholders to identify the strengths and weaknesses of pretrial services programs, including:
 - Priorities and expectations of stakeholders;
 - Areas in need of improvement;
 - Integrity of data and reports;
 - Strategic use of resources; and,
 - Future program planning.

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Pretrial Services

Recommendation 3:

- DCJS should convene a group of stakeholders, including local pretrial directors, pretrial officers, representatives from the Virginia Community Criminal Justice Association (VCCJA), OES, Magistrate Services, CASC, IDC, and any other interested parties, to develop specific recommendations to improve pretrial services.
- A report should be provided to the Crime Commission by November 1, 2018.

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Pretrial Services

Recommendation 4:

- DCJS should monitor the implementation of the VPRAI-R and Praxis over the next year to examine the effectiveness of these instruments and identify any issues or unintended consequences in the application of these tools.
- A report should be provided to the Crime Commission by November 1, 2018.

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Pretrial Services

Recommendation 5:

- DCJS should work with localities, pretrial directors, and any other stakeholders to determine a funding formula for grant disbursements to pretrial services agencies.
 - The current level funding disbursement method may not reflect the best use of resources.
 - A report should be provided to the Crime Commission by November 1, 2018.

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Pretrial Services

Recommendation 6:

- DCJS should explore options for improving or replacing the case management system used by pretrial services agencies (PTCC).
 - Numerous survey respondents noted that the PTCC is antiquated and difficult to navigate.
 - A report should be provided to the Crime Commission by November 1, 2018.

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Pretrial Services

Recommendation 7:

- DCJS should monitor the use of the case management system (PTCC) by pretrial services agencies to ensure that:
 - Comprehensive definitions are developed and utilized; and,
 - Necessary data is entered consistently and uniformly.

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Marijuana Decriminalization

Policy Option 1:

- Remove the jail sentence as punishment for possession of marijuana.
 - Reclassify possession of marijuana as a Class 3 or a Class 4 misdemeanor.

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Marijuana Decriminalization

Policy Option 2:

- Decriminalize possession of small amounts of personal use marijuana.
 - SBs 908 and 1269 addressed this issue. If members want to pursue this policy option, several additional policy matters need to be considered.

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Marijuana Decriminalization

Policy Option 2 (cont.):

- Decriminalize possession of small amounts of personal use marijuana. Legislation should address a penalty structure:
 - Civil offense with a single penalty;
 - Civil offense with escalating penalties; or,
 - Civil offense with escalating penalties up to a criminal offense.
 - Escalating penalties will require:
 - Central repository for records; and,
 - Determination of repository costs.

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Marijuana Decriminalization

Policy Option 2 (cont.):

- Decriminalize possession of small amounts of personal use marijuana. Legislation should address:
 - Quantity limit for personal use and punishments for possession over that limit;
 - Development of weight measurement standards;
 - Which forms of marijuana to decriminalize;
 - Whether possession in vehicles, other areas, or public use should remain criminal;
 - Trial matters such as the burden and proof and how to count prior marijuana convictions;

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Marijuana Decriminalization

Policy Option 2 (cont.):

- Decriminalize possession of small amounts of personal use marijuana. Legislation should address:
 - Whether to suspend a person's driver's license as a result of a civil conviction;
 - Any amendments to Virginia's first time drug offender statute;
 - Any changes to Virginia's firearm and concealed handgun permit statutes;
 - Any amendments to Virginia's DUI statutes;
 - Providing training to law enforcement to recognize signs of drug-impaired driving; and,
 - A delayed or emergency enactment.

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Discussion

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